IN THE HIGH COURT OF JUDICATURE AT BOMBAY
Civil Appellate Side

Writ Petition No. 5372 of 2005

M/s A.V.Bhat & Co. ..Petitioner

vs.

1. Shri Mahadeo Krishnaji
Raskar & ors. ..Respondents

Shri A.P.Paralikar for petitioner
Shri A.S.Gadkari for respondent nos. 1 to 8.

CORAM:A.P.SHAH J.
21st OCTOBER, 2005

P.C.

. Heard counsel for the parties.

2. The petitioner before me is the original defendant no.2. He has taken exception to the order passed by the Trial Court granting application filed by the plaintiffs for amendment of the plaint. The plaintiffs had filed the suit for specific performance of the contract. In the written statement of the 2nd defendant, it was disclosed that the 2nd defendant had transferred the suit property in favour of Shobha Nagari Cooperative Housing Society. Therefore, the plaintiffs have taken out the application for joining the said society as party to the suit and also for raising the alternate prayer for damages. The application was opposed by the 2nd defendant mainly on the ground of limitation. The Trial

Court while granting the application has kept the question of limitation open to be agitated at the time of trial.

3. In B.K.N.Pillai Vs.P.Pillai; AIR 2000 SC 614, Apex Court has held as under:

> "The purpose and object of Order 6, Rule 17, C.P.C. is to allow either party to alter or amend his p,leadings in such manner and on such terms as may be just. The power to allow the amendment is wide and can be exercised at any stage of the proceedings in the interests of justice on the basis of guidelines laid down by various High Courts and this Court. It is true that the amendment cannot be claimed as a matter of right and under all circumstances. But it is equally true that the Courts while deciding such prayers should not adopt hypertechnical approach. Liberal approach should be the general rule particularly in cases where the other side can be compensated with the costs. Technicalities of law should not be permitted to hamper the courts inthe administration of justice between the parties. Amendments are allowed in the pleadings to avoid uncalled for

multiplicity of litigation."

If the aforesaid test is applied in the instant case, the Trial Court cannot be said to have committed any error in granting the amendment. The dominant purpose in granting the amendment is to minimise the litigation. The plea that the relief sought by way of amendment is apperently barred by limitation is expressly kept open by the Trial Court. Under the circumstances no interference is called for at this stage. Petition is dismissed.